IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:10ev169

WILLIS FREEMAN,)	
Plaintiff,)	
Vs.	OR	DER
LIEBERMAN, MICHAELS &KELLY, LLC,)	
Defendant.)	
)	

THIS MATTER is before the court on review of the status of this case. Review of the pleadings reveals that plaintiff has not taken any action since his attorney withdrew in September 2010. Further, review of the court's docket reveals that an Order sent to plaintiff has been returned by the United States Postal Service indicating that plaintiff has moved and left no forwarding address. Such lack of a forwarding address or other contact information was also the basis for plaintiff's counsel withdrawing six-months ago, and no contact has since been made by plaintiff. Rule 41(b), Federal Rules of Civil Procedure, provides as follows:

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule — except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19 — operates as an adjudication on the merits.

Fed.R.Civ.P. 41(b). It appearing that defendant has not appeared, the court will dismiss this action on its own motion. While notice is typically required before such a dismissal, the court has concluded that this action has been abandoned by plaintiff

and that further attempts at notification would be an exercise in futility as plaintiff has failed to provide the court with any actionable contact information. While the court will dismiss this action for want of prosecution, such dismissal will be without prejudice.

ORDER

IT IS, THEREFORE, ORDERED that this action is DISMISSED without prejudice for want of prosecution.

Signed: March 31, 2011

Max O. Cogburn Jr. United States District Judge